

that the Sheriff officer could not be said to be Deposed for
 cause he was not in the Execution of Summons, Letters
 or Precepts, but of a certain summary Mandate, neither of the
 Nature of a summons, nor proceeding on a sentence or pre-
 vious Declarator. In respect it was shew'd for the
 pursuer, that the Sheriff officer was a Sheriff in that part
 and the written order to seize the Cow a precept, which
 would not be held to a summons or sentence, it being
 founded on immemorial Custom and Rights, which is in
 place of a sentence, and established by law Act 54 Parl.
 11 J. 6. And a sufficient warrant for summary Execution
 at Customs and Impositions at fairs, Markets and
 Sea ports, may in the like case be Executed without any
 special warrant by Infeoffment of Declarator 14 January
 1712 John Costin.

This Crime is incurred not only by the person or
 persons Interested against whom the summons or letters
 or precepts are issued or by others bound out by them
 Act 150 Parl. 12 J. 6. To be Answerable for their doings
 the Heirs of any whom they can hinder or their Wives & Chil-
 dren in familia and servants, or of others in his presence
 whom he did not require to forbear; but also it is incurred
 by any others who use such Application to the officers of Jus-
 tice Stat. Wilhel. cap. 91. Act 54 Parl. 11 J. 6. or by any
 person Interested who Approves of and Applauds the fact
 committed by another in detaining him for it, or Recovering
 the dollars or Blazon taken from the Messenger, or loosing
 Crim. part 1, tit. 26 § 2. vers. from which Act it is to be
 observed. Thus a Messenger who has taken a Man with
 Reason having gone with his prisoner into another's house
 upon his promise of protection till the prisoner should
 take some course and satisfy the Debt; and that other
 after he had Entered into Communion with the Mes-
 senger, blown out the Candle and Opened a back door at
 which the Rabbie Rushed in and Released the prisoner
 whose qualifications jointly were sufficient to justify
 an Arbitrary Punishment Against the Carrier of

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 the horse, albeit it was not said, that he knew of the Rabble
 being at the Door, or invited them in, and the Master of a
 house may lawfully open his own door. For which following
 before and after the promise was thought a pregnant Cir-
 cumstance of the Parole Question to the Sheriff, and what
 the promise ~~was~~ proved truthfully made to facilitate and
 the said promise of safety to the Messenger, and found pro-
 bable by witnesses 11 December 1695. James Roddard Esq. & James
 It was found Relevant to justify the parol of Deponement
 Against a Magistrate, that a Messenger whose prisoner
 was Released from him by a Rabbie, Required that Magis-
 trates Concurrence to Dissipate the Mob and prevent the pri-
 soner to be Released up to him to be transported to pri-
 son in another Burgh, and that the Magistrate Refused his
 assistance. Albeit it was intended for the parol that
 he offered to secure the prisoner within the jurisdiction of his
 own Burgh, and he was not bound to Consent for carrying
 him off where 26 December 1698. Nicholas Laith and
 others. But it was not found Relevant to Make one guilty
 of Deponing a Messenger in the Executing a Rabbie
 against his Daughters his Sons, that he standing by
 when the Messenger was Attacked by him & his Sons and
 servants, Refused, when Required by the Messenger, to assist
 Command them to forbear doing him Violence, or to assist
 him in the Discharge of his office, and did furnish his
 son in law with a horse, whereon he Escaped from being
 Apprehended. Albeit it was intended for the parol
 that the parol not prohibiting his own & his Sons and
 servants whom he could not restrain, to seize the Messenger,
 was not only an Authorizing thereof; being qui non pro-
 hibet qui prohibere potest, Mandate & Constables; but also
 it was Contingent of the Kings docters Directors to set
 the good and Sheriff in that part, under which Constable
 nation all his Majesties troops may be Comprehended.
 and the Lord in his horse who was on the party Escaped,
 was a willing and Malicious the Messenger in
 the Execution of his Office. In respect it was found